

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

JOYCE M. MARTIN)	
Claimant)	
VS.)	
)	
WINNING WAYS, INC.)	Docket No. 216,077
Respondent)	
Self-Insured)	

ORDER

Claimant appeals from the April 25, 1997, Order of Assistant Director Brad E. Avery which denied claimant benefits to the left upper extremity.

ISSUES

Respondent raises the following issues for consideration upon appeal:

- (1) Whether claimant suffered accidental injury to her left wrist arising out of and in the course of her employment.
- (2) Whether claimant gave timely notice of the accident to her left upper extremity.

Claimant raised the following issue for review by the Workers Compensation Appeals Board:

- (1) Whether written claim was timely submitted pursuant to K.S.A. 44-520a.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After considering the entire record the Appeals Board finds, for preliminary hearing purposes, as follows:

Claimant claims accidental injury to her bilateral upper extremities while employed with respondent, with the accident date being a series of injuries through February 1995.

Respondent contends that while claimant has proven accidental injury arising out of and in the course of her employment to her right upper extremity, claimant has failed to prove a work related connection to her left upper extremity. The Administrative Law Judge denied claimant benefits for the left upper extremity finding, for preliminary hearing purposes, that claimant had not provided timely written claim on the left wrist and further that the medical evidence did not support a finding that claimant's left hand symptomatology was related to her work because the majority of claimant's symptoms in her left wrist arose subsequent to her layoff from respondent in February 1995.

The only medical records discussing claimant's left hand symptomatology and its relationship to claimant's work are those of Vito J. Carabetta, M.D., a diplomat of the American Board of Physical Medicine and Rehabilitation and John B. Moore IV, M.D., a plastic reconstructive and hand surgery specialist. Both Dr. Carabetta and Dr. Moore agree that claimant's left hand symptomatology, which apparently worsened subsequent to her leaving work with respondent, cannot be considered work related.

Based upon the preponderance of the credible medical evidence, the Appeals Board finds claimant has failed to prove that she suffered accidental injury to her left upper extremity arising out of and in the course of her employment and as such the denial of benefits for the alleged injury to claimant's left upper extremity should be, and is hereby affirmed.

In so finding, the issues of notice and timely written claim are rendered moot.

WHEREFORE, the Appeals Board finds that the Order of Assistant Director Brad E. Avery, dated April 25, 1997, denying claimant benefits for the alleged injury to claimant's left upper extremity for having failed to prove accidental injury arising out of and in the course of her employment should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of June 1997.

BOARD MEMBER

c: James E. Martin, Overland Park, KS
Karen D. Pendland, Kansas City, MO
Office of Administrative Law Judge, Overland Park, KS
Philip S. Harness, Director